

## United States Postal Service

## § 962.22

(2) The Respondent's Notice of Appeal must be accompanied by a written brief specifying the Respondent's exceptions, and any reasons for such exceptions, to the Presiding Officer's initial decision.

(3) Within 30 days of receiving the Respondent's brief, the Reviewing Official may file with the Judicial Officer a response to the Respondent's specified exceptions to the Presiding Officer's initial decision.

(b) *Form of review.* (1) Review by the Judicial Officer will be based entirely on the record and written submissions.

(2) The Judicial Officer may affirm, reduce, reverse, or remand any penalty or assessment determined by the Presiding Officer.

(3) The Judicial Officer shall not consider any objection that was not raised in the hearing unless the interested party demonstrates that the failure to raise the objection before the Presiding Officer was caused by extraordinary circumstances.

(4) If any party demonstrates to the satisfaction of the Judicial Officer that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence, the Judicial Officer shall remand the matter to the Presiding Officer for consideration of such additional evidence.

(c) *Decision of judicial officer.* (1) The Judicial Officer shall promptly serve each party to the appeal with a copy of his decision and a statement describing the right to judicial review under 31 U.S.C. 3805 of any Respondent determined to be liable under 31 U.S.C. 3802.

(2) The decision of the Judicial Officer constitutes final agency action and becomes final and binding on the parties 60 days after it is issued unless a petition for judicial review is filed.

[52 FR 12904, Apr. 20, 1987, as amended at 67 FR 62179, Oct. 4, 2002]

### § 962.22 Form and filing of documents.

(a) Every pleading filed in a proceeding under this part must

(1) Contain a caption setting forth the title of the action, the docket number (after assignment by the Recorder), and a designation of the document (e.g., "Motion to Quash Subpoena");

(2) Contain the name, address, and telephone number of the party or other person on whose behalf the paper was filed, or the name, address and telephone number of the representative who prepared such paper; and

(3) Be signed by the party or other person submitting the document, or by such party's or person's representative.

(b) The original and three copies of all pleadings and documents in a proceeding conducted under this part shall be filed with the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078. Normal Recorder business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time. The Recorder will transmit a copy of each document filed to the other party, and the original to the Presiding Officer.

(c) Pleadings or document transmittals to, or communications with, the Postal Service, other than to the Recorder under paragraph (b) of this section, shall be made through the Reviewing Official or designated Postal Service attorney. If a notice of appearance by a representative is filed on behalf of a Respondent, pleadings or document transmittals to, or communications with, the Respondent shall be made through his representative.

[52 FR 12904, Apr. 20, 1987, as amended at 63 FR 66053, Dec. 1, 1998]

EFFECTIVE DATE NOTE: At 81 FR 40194, June 21, 2016, § 962.22 was amended by revising the introductory text of paragraph (a) and revising paragraph (b), effective July 21, 2016. For the convenience of the user, the revised text is set forth as follows:

### § 962.22 Form and filing of documents.

(a) All pleadings and documents required under this part must be filed using the Judicial Officer electronic filing system unless the presiding officer permits otherwise. The Judicial Officer electronic filing system Web site is accessible 24 hours a day at <https://uspsjoe.justware.com/justiceweb>. Every pleading filed in a proceeding under this part must:

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(b) Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as

## § 962.23

evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays.

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## § 962.23 Service of notice of hearing, other documents.

Unless otherwise specified, service of a Notice of Hearing or any other document under this part must be effected by registered or certified mail, return-receipt requested, or by personal delivery. In the case of personal service, the person making service shall, if possible, secure from the party or other person sought to be served, or his or her agent, a written acknowledgement of receipt, showing the date and time of such receipt. If the person upon whom service is made declines to acknowledge receipt, the person effecting service shall execute a statement, indicating the time, place and manner of service, which shall constitute evidence of service.

EFFECTIVE DATE NOTE: At 81 FR 40194, June 21, 2016, § 962.23 was revised, effective July 21, 2016. For the convenience of the user, the revised text is set forth as follows:

## § 962.23 Service.

If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

## § 962.24 Computation of time.

(a) In computing any period of time provided for by this part, or any order issued pursuant to this part, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the applicable period of time is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government shall be excluded from the computation.

## 39 CFR Ch. I (7–1–16 Edition)

## § 962.25 Continuances and extensions.

Continuances and extensions may be granted under these rules for good cause shown.

## § 962.26 Settlement.

(a) Either party may make offers of settlement or proposals of adjustment at any time.

(b) The Reviewing Official has the exclusive authority to compromise or settle any allegations or determinations of liability under 31 U.S.C. 3802 without the consent of the Presiding Officer, except during the pendency of an appeal to the appropriate United States district court pursuant to 31 U.S.C. 3805 or during the pendency of an action to collect any penalties or assessments pursuant to 31 U.S.C. 3806.

(c) The Attorney General has the exclusive authority to compromise or settle any penalty or assessment the determination of which is the subject of a pending petition for judicial review, or a pending action to recover such penalty or assessment.

(d) The Reviewing Official may recommend settlement terms to the Attorney General, as appropriate.

[59 FR 51860, Oct. 13, 1994]

## § 962.27 Limitations.

A hearing under this part concerning a claim or statement allegedly made, presented, or submitted in violation of 31 U.S.C. 3802 shall be commenced within six years after the date on which such claim or statement is made, presented, or submitted.

## PART 963—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO VIOLATIONS OF THE PANDERING ADVERTISEMENTS STATUTE, 39 U.S.C. 3008

Sec.

963.1 Authority for the rules.

963.2 Scope of the rules.

963.3 Petition; notice of hearing; answer; filing and copies of documents; summary judgment.

963.4 Presiding Officer.

963.5 Appearances.

963.6 Computation of time.

963.7 Location of hearing.

963.8 Change of place of hearing.

963.9 Election as to hearing.